

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JUAN BILLINGSLEY,)	
)	
Petitioner,)	
)	
v.)	Civil Action No. 20-144
)	
KEVIN RANSOM, <i>Superintendent of SCI-</i>)	District Judge W. Scott Hardy
<i>Dallas</i> ; ACTING CHAIRMAN OF THE)	Magistrate Judge Maureen P. Kelly
PENNSYLVANIA BOARD OF)	
PROBATION AND PAROLE; <i>and</i>)	
PENNSYLVANIA ATTORNEY GENERAL)	
OFFICE,)	
)	
Respondents.)	

MEMORANDUM ORDER

This matter comes before the Court on the Report and Recommendation (“R&R”) entered by Magistrate Judge Maureen P. Kelly on August 12, 2021. (Docket No. 38). In this case, *pro se* state prisoner Juan Billingsley filed a Petition under 28 U.S.C. § 2254 for Writ of Habeas Corpus (the “Petition”) challenging the decision of Respondent Pennsylvania Board of Probation and Parole to revoke his parole and recalculate his maximum sentence date. (Docket No. 1). As explained in the R&R, the Petition is subject to dismissal based on Petitioner’s failure to exhaust state court remedies and, even if Petitioner’s claims were not procedurally defaulted, they lack merit. (Docket No. 38 at 4-8). Accordingly, the R&R recommends that: (1) the Motion to Supplement Record and to Dismiss filed by Respondents (Docket No. 28) be granted; and (2) the Petition be dismissed and a certificate of appealability be denied. (*See* Docket No. 38 at 1, 8).

Service of the R&R was made on Petitioner by mail and on Respondents through the Court's CM/ECF system. The parties were informed that any objections to the R&R were due by August 30, 2021. Thereafter, neither party filed any objections.

The Federal Rules of Civil Procedure provide that a party may file specific written objections to the proposed findings and recommendations of a magistrate judge, and a district judge must conduct a *de novo* review of any part of the R&R that has been properly objected to. Fed. R. Civ. P. 72(b)(2), (b)(3); 28 U.S.C. § 636(b)(1). Here, however, because no party filed any objections to the R&R, which explicitly stated that failure to file timely objections "will waive the right to appeal," (Docket No. 38 at 8), this Court reviews the magistrate judge's decision for plain error. *See Tice v. Wilson*, 425 F. Supp. 2d 676, 680 (W.D. Pa. 2006); *see also* Fed. R. Civ. P. 72(b), Advisory Committee Notes ("When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.").

In this case, upon careful review of the R&R and the entire record, including the Petition, the Response thereto, Respondents' Motion, and Petitioner's Response, (Docket Nos. 1, 14, 28, 37), and finding no plain error on the face of the record, the Court will accept Judge Kelly's recommendations. As such, the Court will adopt the R&R as the Opinion of the Court as more specifically set forth below.

Accordingly, in view of the foregoing, the Court enters the following Order:

AND NOW, this 2nd day of September, 2021,

IT IS HEREBY ORDERED that the R&R (Docket No. 38) is ADOPTED as the Opinion of the Court.

For the reasons set forth in the R&R, IT IS FURTHER ORDERED as follows:

(1) Respondents' Motion to Supplement Record and to Dismiss (Docket No. 28) is GRANTED;

(2) Petitioner Juan Billingsley's Petition under 28 U.S.C. § 2254 for Writ of Habeas Corpus (Docket No. 1) is DISMISSED; and,

(3) A certificate of appealability is DENIED.

IT IS FURTHER ORDERED that the Clerk of Court shall mark this case CLOSED.

s/ W. Scott Hardy
W. Scott Hardy
United States District Judge

cc/ecf: All counsel of record

Juan Billingsley (via U.S. Mail)
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